

Brush 1999-0461

***Remarks***

Reconsideration of remaining claims 1, 3-6, 12-17 and 19 is respectfully requested.

In the Office action dated July 23, 2004 (application Paper No. 3), the Examiner rejected all pending claims under one or more of 35 USC §§ 112, second paragraph, 102(b) and 103(a). The Examiner's various rejections will be discussed below in the order appearing in the Office action.

Prior to addressing the claim rejections, it is to be noted that applicants have amended the Abstract to now be within the MPEP requirement of 150 words or less. Applicants believe that as amended the Abstract fully discloses the subject matter of the present invention without exceeding the prescribed word limit.

***35 USC § 112, second paragraph Rejection – Claims 9, 10, 13, 15 and 19***

The Examiner first rejected the above-noted claims as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. Claims 9 and 10 have been cancelled from this application. Claims 13, 15 and 19 have all been amended to provide the proper antecedent basis, with respect to independent claim 12. With these amendments, applicants believe that remaining claims 13, 15 and 19 are now in condition for allowance. Applicants thus respectfully request the Examiner to reconsider this rejection and find the claims allowable. Claim 12 has also been amended to clarify certain of the terms and phrases used therein.

***35 USC § 102(b) Rejection – Claims 1, 2, 5-11 and 20***

The Examiner rejected claims 1, 2, 5-11 and 20 under 35 USC 102(b) as being anticipated by US Patent 6,728,239 issued to Kung et al. In response, applicants have amended claim 1 to include the limitations of claim 2, and have cancelled claims 2, 7-11 and 20. Applicants assert that with these amendments remaining claims 1 and 3-6 are not anticipated by Kung et al.

Brush 1999-0461

Regarding the subject matter of the limitations of now-amended claim 2, the Examiner cited Kung et al. as teaching "servers are grouped according to their functions ... [and] the call manager server CM 218 issues a local number portability query 511 to the database 122 indicating a re-routing if the local resources are not sufficient to handle the call", where the Examiner associates the latter action of call manager server with the inventive step of "forwarding the request from a first group to a second group if the identified intelligent peripheral resource that was assigned the request is not sufficient to meet the request". Applicants cannot agree with the Examiner's conclusion. The particular portion of Kung et al. cited by the Examiner is merely directed to determining if local number portability is available, following a first process path if the service is available or following a second process path if the service is not available.

In contrast, the method of the present invention is directed to transferring an incoming request from a first group of intelligent peripherals to a second group of intelligent peripherals if the first group is "busy", thus providing an aspect of load balancing. This aspect of the present invention is discussed in the specification at page 3, beginning at line 24.

Based on this distinction, applicants assert that Kung et al. cannot be found to anticipate the subject matter of claim 1 (as amended), and thus respectfully request the Examiner to reconsider this particular rejection of claim 1, as well as remaining dependent claims 3-6, and find these claims to be in condition for allowance.

### ***35 USC § 103(a) Rejection – Claims 3 and 4***

Claims 3 and 4 were next rejected by the Examiner under 35 USC 103(a) as being unpatentable over Kung et al. in view of US Patent Publication No. 2002/0087665 (Marshall). In particular, the Examiner cited Marshall as teaching grouping intelligent peripheral resources and properly identifying the resources applicable to a certain request. In response, applicants assert that the combination of Marshall with Kung et al. still lacks any teaching of transferring a request from a first group to a second group of peripherals when the first group is insufficient to handle the request. Without this teaching, applicants assert that Kung et al. in combination with Marshall cannot be found to render obvious the subject matter of claims 3 and 4. Applicants thus respectfully request the

Brush 1999-0461

Examiner to reconsider this rejection and find claims 3 and 4 to be in condition for allowance.

***35 USC § 103(a) Rejection – Claims 12-17 and 19***

The Examiner next rejected claims 12-17 and 19 under 35 USC 103(a) as being unpatentable over US Patent 6,128,379 (Smyk) in view of Kung et al. Inasmuch as independent claim 12 has been amended to include the limitations of claim 18 (considered as allowable over the cited combination of references), applicants need not address this particular rejection.

***35 USC § 103(a) Rejection – Claim 18***

Lastly, the Examiner rejected claim 18 under 35 USC 103(a) as being unpatentable over the combination of Smyk and Kung et al. (as above), when further considered with Marshall. In particular, the Examiner cited the Marshall reference as teaching “a deployment tool 510 for checking intelligent peripheral resources assignment and dependency, after receiving requests from different requesting elements to ensure resource dependencies are satisfied”, citing paragraphs 76 and 77 of Marshall as teaching this particular aspect. In response, applicants have reviewed the cited portions of Marshall and conclude that these paragraphs are properly directed to either “allowing” or “denying” the deployment of resources as a function of determining “whether one or more dependencies are satisfied”. In contrast, the subject matter of claim 18 (as now incorporated into independent claim 12), is directed to performing “a resource allocation function by determining the status and capability of the intelligent peripheral resources and assigning a request to an intelligent peripheral resource based on the determination”. A resource allocation is not denied in the system as defined by amended claim 12.

Applicants thus assert that the combination of Marshall with Smyk and Kung et al. cannot be found to render obvious the subject matter of now-amended independent claim 12, or remaining claims 13-17 and 19 which depend therefrom. Applicants thus respectfully request the Examiner to reconsider this rejection and find the amended claims to be in condition for allowance.

Brush 1999-0461

In summary, the present application now contains claims 1, 3-6, 12-17 and 19, where various claims have been amended (or cancelled) to overcome the Examiner's rejections. The Abstract has also been amended. Applicants believe that the case, in its present form, is now in condition for allowance and respectfully request an early and favorable response from the Examiner in that regard. If for some reason or other the Examiner does not agree that the case is ready to issue and that an interview or telephone conversation would further the prosecution, the Examiner is invited to contact applicants' attorney at the telephone number listed below.

Respectfully submitted,

Wesley A. Brush et al.

By: Wendy W. Koba  
Wendy W. Koba  
Reg. No. 30509  
Attorney for applicant  
610-346-7112

Date: 10/18/2004